

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES E. WALKER,

Plaintiff,

vs.

NICK LAMB, et al.,

Defendants.

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Case No. 19-cv-00618-SMY

NOTICE AND ORDER

This case is before the Court for case management. Upon the screening of Plaintiff's Second Amended Complaint pursuant to 28 U.S.C. § 1915A (Doc. 52), Defendant Dean was sent a request for Waiver of Service of Summons. (Docs. 58, 60). Dean returned an executed Waiver of Service of Summons and his responsive pleading was due by October 26, 2020. (Doc. 65). To date, Dean has failed to move, answer, or otherwise plead in response to the Second Amended Complaint.¹

The Clerk of Court must enter default against a defendant who has failed to plead or otherwise defend. FED.R.CIV.P. 55(a). Accordingly, the Court **ORDERS** as follows:

- 1) The Clerk of Court is **DIRECTED** to **ENTER DEFAULT** against Michael R. Dean in accordance with Federal Rule of Civil Procedure 55(a).
- 2) The Clerk of Court is **DIRECTED** to transmit a copy of this Order and the entry of default to Plaintiff and Defendant Dean.

¹ The screening order directed Defendants to "timely file an appropriate responsive pleading to the Second Amended Complaint" and states that Defendants "shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g)." (Doc. 52, p. 6). Because the Court specifically ordered Defendants to respond to the Second Amended Complaint, Defendant Dean cannot rely on the Prison Litigation Reform Act to avoid the entry of default. 42 U.S.C. § 1997e(g)(2). See e.g., *Vinning v. Walks*, 2009 WL 839052, *1 n.2 (S.D. Ill. Mar. 31, 2009) (default against defendant was proper because the Court exercised its authority under 42 U.S.C. § 1997e(g)(2) by directing the defendant to file a reply to plaintiff's complaint, and the defendant "disregarded that direct [o]rder").

IT IS SO ORDERED.

DATED: December 2, 2020

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge